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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

SAMUEL TURNER, individually, and  
on behalf of other members of the  
general public similarly situated and  
on behalf of other aggrieved  
employees pursuant to the California  
Private Attorneys General Act,

Plaintiff,

vs.

LTF CLUB MANAGEMENT CO,  
LLC, an unknown business entity;  
LIFE TIME FITNESS, INC., an  
unknown business entity; and DOES 1  
through 100, inclusive,

Defendants.

Case No.: 2:20-cv-00046-KJM-EFB

[Removed from Sacramento Superior  
Court, Case No. 34-2019-00269609]

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR DAMAGES &  
ENFORCEMENT UNDER THE  
PRIVATE ATTORNEYS GENERAL  
ACT, CALIFORNIA LABOR CODE  
§ 2698, ET SEQ.**

- (1) Violation of California Labor  
Code §§ 510 and 1198  
(Unpaid Overtime);
- (2) Violation of California Labor  
Code §§ 226.7 and 512(a)  
(Unpaid Meal Period  
Premiums);
- (3) Violation of California Labor  
Code § 226.7 (Unpaid Rest  
Period Premiums);

- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of California Business & Professions Code §§ 17200, et seq.
- (11) Violation of California Labor Code § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)

**DEMAND FOR JURY TRIAL**

Action Filed: November 21, 2019

COMES NOW, Plaintiff SAMUEL TURNER (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorney General Act, and alleges as follows:

**JURISDICTION AND VENUE**

1. This class action was originally brought in the Superior Court for the County of Sacramento pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d).

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2. This Court has asserted jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. Upon information and belief, Defendant is a Delaware corporation doing business in California, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this District and throughout the State of California. Defendant maintains offices, has agents, and is licensed to transact and does transact business in this District.

## PARTIES

4. Plaintiff SAMUEL TURNER is an individual residing in the State of California.

5. Defendant LTF CLUB MANAGEMENT CO, LLC, at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of Sacramento.

6. Defendant LIFE TIME FITNESS, INC., at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of Sacramento.

7. At all relevant times, Defendant LTF CLUB MANAGEMENT CO, LLC and LIFE TIME FITNESS, INC. were the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS, INC. and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers,

1 representatives, servants, employees, successors-in-interest, co-conspirators  
2 and/or assigns, each of the other, and at all times relevant hereto were acting  
3 within the course and scope of their authority as such agents, partners, joint  
4 venturers, joint employers, representatives, servants, employees, successors, co-  
5 conspirators and/or assigns, and all acts or omissions alleged herein were duly  
6 committed with the ratification, knowledge, permission, encouragement,  
7 authorization and/or consent of each defendant designated as a DOE herein.

8         9. The true names and capacities, whether corporate, associate,  
9 individual or otherwise, of defendants DOES 1 through 100, inclusive, are  
10 unknown to Plaintiff who sues said defendants by such fictitious names. Plaintiff  
11 is informed and believes, and based on that information and belief alleges, that  
12 each of the defendants designated as a DOE is legally responsible for the events  
13 and happenings referred to in this Complaint, and unlawfully caused the injuries  
14 and damages to Plaintiff and the other class members as alleged in this  
15 Complaint. Plaintiff will seek leave of court to amend this Complaint to show  
16 the true names and capacities when the same have been ascertained.

17         10. Defendants LTF CLUB MANAGEMENT CO, LLC, LIFE TIME  
18 FITNESS, INC., and DOES 1 through 100 will hereinafter collectively be  
19 referred to as “Defendants.”

20         11. Plaintiff further alleges that Defendants, directly or indirectly  
21 controlled or affected the working conditions, wages, working hours, and  
22 conditions of employment of Plaintiff and the other class members and aggrieved  
23 employees so as to make each of said Defendants employers and employers  
24 liable under the statutory provisions set forth herein.

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**CLASS ACTION ALLEGATIONS**

12. Plaintiff brings this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

13. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from November 21, 2015 to final judgment and who reside in California.

14. Plaintiff reserves the right to establish subclasses as appropriate.

15. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.

b. Typicality: Plaintiff's claims are typical of all other class members' as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.

c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is

antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

- d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.
- e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

16. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants' had a corporate policy and practice of failing to pay their hourly-paid or non-exempt employees

1 within the State of California for all hours worked and missed  
2 (short, late, interrupted, and/or missed altogether) meal periods  
3 and rest breaks in violation of California law;

4 c. Whether Defendants required Plaintiff and the other class  
5 members to work over eight (8) hours per day and/or over  
6 forty (40) hours per week and failed to pay the legally required  
7 overtime compensation to Plaintiff and the other class  
8 members;

9 d. Whether Defendants deprived Plaintiff and the other class  
10 members of meal and/or rest periods or required Plaintiff and  
11 the other class members to work during meal and/or rest  
12 periods without compensation;

13 e. Whether Defendants failed to pay minimum wages to Plaintiff  
14 and the other class members for all hours worked;

15 f. Whether Defendants failed to pay all wages due to Plaintiff  
16 and the other class members within the required time upon  
17 their discharge or resignation;

18 g. Whether Defendants failed to timely pay all wages due to  
19 Plaintiff and the other class members during their  
20 employment;

21 h. Whether Defendants complied with wage reporting as required  
22 by the California Labor Code; including, *inter alia*,  
23 section 226;

24 i. Whether Defendants kept complete and accurate payroll  
25 records as required by the California Labor Code, including,  
26 *inter alia*, section 1174(d);

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- j. Whether Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs;
- k. Whether Defendants' conduct was willful or reckless;
- l. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- n. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

17. Class certification of the First through Eleventh causes of action is appropriate pursuant to Rule 23(b)(3) because the aforementioned questions of law and fact common to the class predominate over any questions affecting only individual members of the class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices have unlawfully denied Plaintiff and the other class members meal period premiums for all meal periods that were not provided in compliance with the applicable Industrial Welfare Commission ("IWC") Order and California Labor Code, have denied them rest period premiums for all rest periods that were not provided in compliance with the applicable IWC Order and California Labor Code, have denied them of minimum wages for all hours worked, have denied them payment of their final wages in a timely manner, have denied them of accurate wage statements in compliance with the California Labor Code, have denied them from getting reimbursed for necessary business related expenses, and amount to unfair competition under



1 California Business and Professions Code Sections 17200 et seq. The damages  
 2 suffered by individual class members are relatively small compared to the expense  
 3 and burden of individual prosecution of this litigation. For this reason, as well as  
 4 the fact that class members currently employed by Defendants may fear direct or  
 5 indirect retaliation from Defendants for prosecuting an action against Defendants,  
 6 the class members' interests in individually controlling the prosecution of this  
 7 action is minimal. In addition, a class action in this forum is desirable as it will  
 8 eliminate the risk of inconsistent rulings regarding the legality of Defendants'  
 9 policies, practices, and procedures. Managing this case as a class action will not  
 10 present difficulties as the parties can utilize approved methods of random  
 11 statistical sampling and expert testimony at trial.

12 18. Once class certification is granted, Plaintiff will send notice to all  
 13 members of the class consistent with the requirements of Rule 23(c)(2) of the  
 14 Federal Rules of Civil Procedure. Specifically, Plaintiff will submit a proposed  
 15 notice to the Court for its approval, stating (i) the nature of this action, (ii) the  
 16 definition of the certified class, (iii) the class claims, issues, and/or defenses, (iv)  
 17 that a class member may enter an appearance through an attorney if he or she so  
 18 desires, (v) that the Court will exclude from the class any member who requests  
 19 exclusion, (vi) the time and manner for requesting exclusion, and (vii) the binding  
 20 effect of a class judgment on class members under Rule 23(c)(3).

### 21 **PAGA ALLEGATIONS**

22 19. At all times herein set forth, PAGA was applicable to Plaintiff's  
 23 employment by Defendants.

24 20. At all times herein set forth, PAGA provides that any provision of  
 25 law under the California Labor Code that provides for a civil penalty, including  
 26 unpaid wages and premium wages, to be assessed and collected by the LWDA  
 27 for violations of the California Labor Code may, as an alternative, be recovered  
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1 through a civil action brought by an aggrieved employee on behalf of himself and  
2 other current or former employees pursuant to procedures outlined in California  
3 Labor Code section 2699.3.

4 21. Pursuant to PAGA, a civil action under PAGA may be brought by an  
5 “aggrieved employee,” who is any person that was employed by the alleged  
6 violator and against whom one or more of the alleged violations was committed.

7 22. Plaintiff was employed by Defendants and the alleged violations  
8 were committed against him during his time of employment and he is, therefore,  
9 an aggrieved employee. Plaintiff and the other employees are “aggrieved  
10 employees” as defined by California Labor Code section 2699(c) in that they are  
11 current or former employees of Defendants, and one or more of the alleged  
12 violations were committed against them.

13 23. Pursuant to California Labor Code sections 2699.3 and 2699.5, an  
14 aggrieved employee, including Plaintiff, may pursue a civil action arising under  
15 PAGA after the following requirements have been met:

- 16 a. The aggrieved employee shall give written notice by online  
17 submission (hereinafter “Employee's Notice”) to the LWDA  
18 and by certified mail to the employer of the specific provisions  
19 of the California Labor Code alleged to have been violated,  
20 including the facts and theories to support the alleged  
21 violations.
- 22 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail  
23 that it does not intend to investigate the alleged violation  
24 within sixty (60) calendar days of the postmark date of the  
25 Employee’s Notice. Upon receipt of the LWDA Notice, or if  
26 the LWDA Notice is not provided within sixty-five (65)  
27  
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1 calendar days of the postmark date of the Employee's Notice,  
2 the aggrieved employee may commence a civil action pursuant  
3 to California Labor Code section 2699 to recover civil  
4 penalties in addition to any other penalties to which the  
5 employee may be entitled.

6 24. On September 17, 2019, Plaintiff provided written notice by online  
7 submission to the LWDA and by certified mail to Defendants LTF CLUB  
8 MANAGEMENT CO, LLC and LIFE TIME FITNESS, INC. of the specific  
9 provisions of the California Labor Code alleged to have been violated, including  
10 the facts and theories to support the alleged violations. Plaintiff did not receive  
11 an LWDA Notice within sixty-five (65) days of the date of the submission of  
12 Plaintiff's Notice.

13 25. Therefore, the administrative prerequisites under California Labor  
14 Code section 2699.3(a) to recover civil penalties, in addition to other remedies,  
15 for violations of California Labor Code sections 201, 202, 203, 204, 226(a),  
16 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 have been  
17 satisfied.

### 18 **GENERAL ALLEGATIONS**

19 26. At all relevant times set forth herein, Defendants employed Plaintiff  
20 and other persons as hourly-paid or non-exempt employees within the State of  
21 California, County of Sacramento.

22 27. Defendants, jointly and severally, employed Plaintiff as an hourly-  
23 paid, non-exempt Shift Supervisor, from approximately December 2017 to  
24 approximately October 2018, in the State of California.

25 28. Defendants hired Plaintiff and the other class members and classified  
26 them as hourly-paid or non-exempt employees, and failed to compensate them  
27 for all hours worked and missed, shortened, late, and/or interrupted meal periods  
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1 and/or rest periods.

2 29. Defendants had the authority to hire and terminate Plaintiff and the  
3 other class members, to set work rules and conditions governing Plaintiff's and  
4 the other class members' employment, and to supervise their daily employment  
5 activities.

6 30. Defendants exercised sufficient authority over the terms and  
7 conditions of Plaintiff's and the other class members' employment for them to be  
8 joint employers of Plaintiff and the other class members.

9 31. Defendants directly hired and paid wages and benefits to Plaintiff  
10 and the other class members.

11 32. Defendants continue to employ hourly-paid or non-exempt  
12 employees within the State of California.

13 33. Plaintiff and the other class members worked over eight (8) hours in  
14 a day, and/or forty (40) hours in a week during their employment with  
15 Defendants.

16 34. Plaintiff is informed and believes, and based thereon alleges, that  
17 Defendants engaged in a uniform pattern and practice of wage abuse against their  
18 hourly-paid or non-exempt employees within the State of California. This  
19 uniform pattern and practice involved, *inter alia*, failing to pay them for all  
20 regular and/or overtime wages earned and for missed, shortened, late, and/or  
21 interrupted meal periods and rest breaks in violation of California law.

22 35. Plaintiff is informed and believes, and based thereon alleges, that  
23 Defendants knew or should have known that Plaintiff and the other class  
24 members were entitled to receive certain wages for overtime compensation and  
25 that they were not receiving accurate overtime compensation for all overtime  
26 hours worked.

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1           36. Plaintiff is informed and believes, and based thereon alleges, that  
2 Defendants failed to provide Plaintiff and the other class members all required  
3 rest and meal periods during the relevant time period as required under the  
4 Industrial Welfare Commission Wage Orders and thus they are entitled to any  
5 and all applicable penalties.

6           37. Plaintiff is informed and believes, and based thereon alleges, that  
7 Defendants failed to relieve Plaintiff and other class members of all duties, failed  
8 to relinquish control over Plaintiff and the other class members' activities, failed  
9 to permit Plaintiff and other class members a reasonable opportunity to take, and  
10 impeded or discouraged them from taking thirty (30) minute uninterrupted meal  
11 breaks no later than the end of their fifth hour of work for shifts lasting at least  
12 six (6) hours, and/or to take second thirty (30) minute uninterrupted meal breaks  
13 no later than their tenth hour of work for shifts lasting more than ten (10) hours.

14           38. Plaintiff is informed and believes, and based thereon alleges, that  
15 Defendants knew or should have known that Plaintiff and the other class  
16 members were entitled to receive all meal periods or payment of one additional  
17 hour of pay at Plaintiff's and the other class member's regular rate of pay when a  
18 meal period was missed, shortened, late, and/or interrupted and they did not  
19 receive all meal periods or payment of one additional hour of pay at Plaintiff's  
20 and the other class member's regular rate of pay when a meal period was missed,  
21 shortened, late, and/or interrupted.

22           39. Plaintiff is informed and believes, and based thereon alleges, that  
23 Defendants knew or should have known that Plaintiff and the other class  
24 members were entitled to receive all rest periods or payment of one additional  
25 hour of pay at Plaintiff's and the other class member's regular rate of pay when a  
26 rest period was missed, and they did not receive all rest periods or payment of  
27 one additional hour of pay at Plaintiff's and the other class members' regular rate  
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1 of pay when a rest period was missed.

2 40. Plaintiff is informed and believes, and based thereon alleges, that  
3 Defendants knew or should have known that Plaintiff and the other class  
4 members were entitled to receive at least minimum wages for compensation and  
5 that they were not receiving at least minimum wages for all hours worked.  
6 Defendants' failure to pay minimum wages included, *inter alia*, Defendants'  
7 effective payment of zero dollars per hour for hours Plaintiff and the other class  
8 members worked off-the-clock performing work duties, including, but not  
9 limited to, responding to business-related inquiries and attending to tasks that  
10 were required to be completed such as assisting customers.

11 41. Plaintiff is informed and believes, and based thereon alleges, that  
12 Defendants knew or should have known that Plaintiff and the other class  
13 members were entitled to receive all wages owed to them upon discharge or  
14 resignation, including overtime and minimum wages and meal and rest period  
15 premiums, and they did not, in fact, receive all such wages owed to them at the  
16 time of their discharge or resignation.

17 42. Plaintiff is informed and believes, and based thereon alleges, that  
18 Defendants knew or should have known that Plaintiff and the other class  
19 members were entitled to receive all wages owed to them during their  
20 employment. Plaintiff and the other class members did not receive payment of  
21 all wages, including overtime and minimum wages and meal and rest period  
22 premiums, within any time permissible under California Labor Code section 204.

23 43. Plaintiff is informed and believes, and based thereon alleges, that  
24 Defendants knew or should have known that Plaintiff and the other class  
25 members were entitled to receive complete and accurate wage statements in  
26 accordance with California law, but, in fact, they did not receive complete and  
27 accurate wage statements from Defendants. The deficiencies included, *inter alia*,  
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1 the failure to include the accurate total number of hours worked by Plaintiff and  
2 the other class members and the accurate total amount of wages earned by  
3 Plaintiff and the other class members.

4 44. Plaintiff is informed and believes, and based thereon alleges, that  
5 Defendants knew or should have known that Defendants had to keep complete  
6 and accurate payroll records for Plaintiff and the other class members in  
7 accordance with California law, but, in fact, did not keep complete and accurate  
8 payroll records.

9 45. Plaintiff is informed and believes, and based thereon alleges, that  
10 Defendants knew or should have known that Plaintiff and the other class  
11 members were entitled to reimbursement for all necessary business-related  
12 expenses, including, the use of personal phones for business-related purposes and  
13 costs incurred to comply with Defendants' dress code, including the costs of  
14 purchasing footwear and slacks.

15 46. Plaintiff is informed and believes, and based thereon alleges, that  
16 Defendants knew or should have known that they had a duty to compensate  
17 Plaintiff and the other class members pursuant to California law, and that  
18 Defendants had the financial ability to pay such compensation, but willfully,  
19 knowingly, and intentionally failed to do so, and falsely represented to Plaintiff  
20 and the other class members that they were properly denied wages, all in order to  
21 increase Defendants' profits.

22 47. During the relevant time period, Defendants failed to pay overtime  
23 wages to Plaintiff and the other class members for all overtime hours worked.  
24 Plaintiff and the other class members were required to work more than eight (8)  
25 hours per day and/or forty (40) hours per week without overtime compensation  
26 for all overtime hours worked.

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1           48. During the relevant time period, Defendants failed to provide all  
2 requisite uninterrupted meal and rest periods to Plaintiff and the other class  
3 members.

4           49. During the relevant time period, Defendants failed to pay Plaintiff  
5 and the other class members at least minimum wages for all hours worked.

6           50. During the relevant time period, Defendants failed to pay Plaintiff  
7 and the other class members all wages owed to them upon discharge or  
8 resignation.

9           51. During the relevant time period, Defendants failed to pay Plaintiff  
10 and the other class members all wages within any time permissible under  
11 California law, including, *inter alia*, California Labor Code section 204.

12           52. During the relevant time period, Defendants failed to provide  
13 complete or accurate wage statements to Plaintiff and the other class members.

14           53. During the relevant time period, Defendants failed to keep complete  
15 or accurate payroll records for Plaintiff and the other class members.

16           54. During the relevant time period, Defendants failed to reimburse  
17 Plaintiff and the other class members for all necessary business-related expenses  
18 and costs.

19           55. During the relevant time period, Defendants failed to properly  
20 compensate Plaintiff and the other class members pursuant to California law in  
21 order to increase Defendants' profits.

22           56. California Labor Code section 218 states that nothing in Article 1 of  
23 the Labor Code shall limit the right of any wage claimant to "sue directly . . . for  
24 any wages or penalty due to him [or her] under this article."

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**FIRST CAUSE OF ACTION**

**(Violation of California Labor Code §§ 510 and 1198)**

**(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,  
INC. and DOES 1 through 100)**

57. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 56, and each and every part thereof with the same force and effect as though fully set forth herein.

58. California Labor Code section 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

59. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and the other class members employed by Defendants, and working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

60. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

61. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of

1 twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh  
2 day of work.

3 62. During the relevant time period, Plaintiff and the other class members  
4 worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in  
5 a week, including performing work duties off-the-clock at the direction of  
6 Defendants, including, but not limited to, responding to business-related inquiries  
7 and attending to tasks that were required to be completed such as assisting  
8 customers.

9 63. During the relevant time period, Defendants intentionally and  
10 willfully failed to pay overtime wages owed to Plaintiff and the other class  
11 members. Plaintiff and the other class members did not receive overtime  
12 compensation at one and one-half times their regular hourly rate of pay for all  
13 hours spent performing job duties in excess of eight (8) hours in a day or forty  
14 (40) hours in a week or for the first eight (8) hours worked on the seventh day of  
15 work. By way of example, during the months of June through August 2018,  
16 Plaintiff was not compensated at an overtime rate for all time worked in excess of  
17 eight (8) hours per day.

18 64. Defendants' failure to pay Plaintiff and the other class members the  
19 unpaid balance of overtime compensation, as required by California laws,  
20 violates the provisions of California Labor Code sections 510 and 1198, and is  
21 therefore unlawful.

22 65. Pursuant to California Labor Code section 1194, Plaintiff and the  
23 other class members are entitled to recover unpaid overtime compensation, as  
24 well as interest, costs, and attorneys' fees.

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**SECOND CAUSE OF ACTION**

**(Violation of California Labor Code §§ 226.7 and 512(a))  
(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,  
INC. and DOES 1 through 100)**

66. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 65, and each and every part thereof with the same force and effect as though fully set forth herein.

67. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class members' employment by Defendants.

68. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

69. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

70. During the relevant time period, Plaintiff and the other class members' meal periods were missed, shortened, late, and/or were interrupted because Defendants required them to perform work duties, including, but not limited to, responding to business-related inquiries and attending to tasks that were required to be completed such as assisting customers. By way of example, during the months of June through August 2018, Plaintiff worked for a work period of more than five (5) hours per day without a meal period of not less than

1 thirty (30) minutes and did not waive his meal period during such work period.

2 71. As a result, Defendants failed to relieve Plaintiff and the other class  
3 members of all duties, failed to relinquish control over Plaintiff and the other  
4 class members' activities, failed to permit Plaintiff and the other class members a  
5 reasonable opportunity to take, and impeded or discouraged them from taking  
6 thirty (30) minute uninterrupted meal periods no later than the end of their fifth  
7 hour of work for shifts lasting at least six (6) hours, and/or to take second thirty  
8 (30) minute uninterrupted meal periods no later than their tenth hour of work for  
9 shifts lasting more than ten (10) hours.

10 72. At all relevant times, the applicable IWC Wage Order and California  
11 Labor Code section 512(a) further provide that an employer may not require,  
12 cause or permit an employee to work for a work period of more than ten (10)  
13 hours per day without providing the employee with a second uninterrupted meal  
14 period of not less than thirty (30) minutes, except that if the total hours worked is  
15 no more than twelve (12) hours, the second meal period may be waived by  
16 mutual consent of the employer and the employee only if the first meal period  
17 was not waived.

18 73. During the relevant time period, Plaintiff and the other class  
19 members who were scheduled to work for a period of time no longer than six (6)  
20 hours, and who did not waive their legally-mandated meal periods by mutual  
21 consent, were required to work for periods longer than five (5) hours without an  
22 uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

23 74. During the relevant time period, Plaintiff and the other class  
24 members who were scheduled to work for a period of time in excess of six (6)  
25 hours were required to work for periods longer than five (5) hours without an  
26 uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

27 ///

1           75. During the relevant time period, Defendants intentionally and  
2 willfully required Plaintiff and the other class members to work during meal  
3 periods and failed to compensate Plaintiff and the other class members the full  
4 meal period premium for work performed during meal periods.

5           76. During the relevant time period, Defendants failed to pay Plaintiff  
6 and the other class members the full meal period premium due pursuant to  
7 California Labor Code section 226.7.

8           77. Defendants' conduct violates applicable IWC Wage Order and  
9 California Labor Code sections 226.7 and 512(a).

10           78. Pursuant to applicable IWC Wage Order and California Labor Code  
11 section 226.7(c), Plaintiff and the other class members are entitled to recover  
12 from Defendants one additional hour of pay at the employee's regular rate of  
13 compensation for each work day that the meal or rest period is not provided.

14                           **THIRD CAUSE OF ACTION**

15                           **(Violation of California Labor Code § 226.7)**

16                   **(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,**  
17                   **INC. and DOES 1 through 100)**

18           79. Plaintiff incorporates by reference the allegations contained in  
19 paragraphs 1 through 78, and each and every part thereof with the same force and  
20 effect as though fully set forth herein.

21           80. At all times herein set forth, the applicable IWC Wage Order and  
22 California Labor Code section 226.7 were applicable to Plaintiff's and the other  
23 class members' employment by Defendants.

24           81. At all relevant times, California Labor Code section 226.7 provides  
25 that no employer shall require an employee to work during any rest period  
26 mandated by an applicable order of the California IWC.

27           ///

1           82. At all relevant times, the applicable IWC Wage Order provides that  
2 “[e]very employer shall authorize and permit all employees to take rest periods,  
3 which insofar as practicable shall be in the middle of each work period” and that  
4 the “rest period time shall be based on the total hours worked daily at the rate of  
5 ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless  
6 the total daily work time is less than three and one-half (3 ½) hours.

7           83. During the relevant time period, Defendants required Plaintiff and  
8 other class members to work three and one-half (3 ½) or more hours without  
9 authorizing or permitting a ten (10) minute rest period per each four (4) hour  
10 period, or major fraction thereof, worked.

11           84. During the relevant time period, Defendants did not provide Plaintiff  
12 and the other class members ten (10) minute rest periods when they worked shifts  
13 of at least three and one-half (3 ½) hours but less than four (4) hours in length.

14           85. During the relevant time period, Plaintiff and the other class  
15 members’ rest periods were missed, shortened, late, and/or interrupted because  
16 Defendants required them to perform work duties, including, but not limited to,  
17 responding to business-related inquiries and attending to tasks that were required  
18 to be completed such as assisting customers. By way of example, during the  
19 months of June through August 2018, Plaintiff worked for a work period of three  
20 and one-half (3 ½) or more hours without a full, uninterrupted, off-duty ten (10)  
21 minute rest period.

22           86. As a result, Defendants failed to provide, authorize, and/or permit  
23 Plaintiff and other class members to take full, uninterrupted, off-duty rest periods  
24 for every shift lasting three and one-half (3 ½) to six (6) hours and/or two full,  
25 uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10)  
26 hours, and/or three full, uninterrupted, off-duty rest periods for every shift lasting  
27 ten (10) to fourteen (14) hours and failed to make a good faith effort to authorize,  
28



1 permit, and provide such rest breaks in the middle of each work period.

2 87. During the relevant time period, Defendants willfully required  
3 Plaintiff and the other class members to work during rest periods and failed to  
4 pay Plaintiff and the other class members the full rest period premium for work  
5 performed during rest periods. For example, throughout his employment with  
6 Defendants, although Plaintiff was not authorized and permitted to take full,  
7 uninterrupted, off-duty rest periods for each shift of at least three and one-half (3  
8 ½) hours but less than four (4) hours worked, or major fraction thereof, he was  
9 not provided with rest period premium payments.

10 88. During the relevant time period, Defendants failed to pay Plaintiff  
11 and the other class members the full rest period premium due pursuant to  
12 California Labor Code section 226.7.

13 89. Defendants' conduct violates applicable IWC Wage Orders and  
14 California Labor Code section 226.7.

15 90. Pursuant to the applicable IWC Wage Orders and California Labor  
16 Code section 226.7(c), Plaintiff and the other class members are entitled to  
17 recover from Defendants one additional hour of pay at the employees' regular  
18 hourly rate of compensation for each work day that the rest period was not  
19 provided.

#### 20 **FOURTH CAUSE OF ACTION**

21 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

22 **(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,**  
23 **INC. and DOES 1 through 100)**

24 91. Plaintiff incorporates by reference the allegations contained in  
25 paragraphs 1 through 90, and each and every part thereof with the same force and  
26 effect as though fully set forth herein.

27 ///

1           92. At all relevant times, California Labor Code sections 1194, 1197,  
2 and 1197.1 provide that the minimum wage to be paid to employees, and the  
3 payment of a lesser wage than the minimum so fixed is unlawful.

4           93. During the relevant time period, Defendants failed to pay minimum  
5 wage to Plaintiff and the other class members as required, pursuant to California  
6 Labor Code sections 1194, 1197, and 1197.1. The applicable minimum wage in  
7 effect during the relevant time period ranged from \$9.00 per hour at the  
8 beginning of the relevant time period in November 21, 2015 to \$10.00 per hour  
9 effective January 1, 2016 to \$10.50 per hour effective January 1, 2017 to \$11.00  
10 per hour effective January 1, 2018. Defendants' failure to pay minimum wages  
11 included, inter alia, Defendants' effective payment of zero dollars per hour for  
12 hours Plaintiff and the other class members worked off-the-clock performing  
13 work duties, including, but not limited to, business-related inquiries and  
14 attending to tasks that were required to be completed such as assisting customers.

15           94. Defendants' failure to pay Plaintiff and the other class members the  
16 minimum wage as required violates California Labor Code sections 1194, 1197,  
17 and 1197.1. Pursuant to those sections Plaintiff and the other class members are  
18 entitled to recover the unpaid balance of their minimum wage compensation as  
19 well as interest, costs, and attorney's fees, and liquidated damages in an amount  
20 equal to the wages unlawfully unpaid and interest thereon.

21           95. Pursuant to California Labor Code section 1197.1, Plaintiff and the  
22 other class members are entitled to recover a penalty of \$100.00 for the initial  
23 failure to timely pay each employee minimum wages, and \$250.00 for each  
24 subsequent failure to pay each employee minimum wages.

25           96. Pursuant to California Labor Code section 1194.2, Plaintiff and the  
26 other class members are entitled to recover liquidated damages in an amount  
27 equal to the wages unlawfully unpaid and interest thereon.  
28

**FIFTH CAUSE OF ACTION**

**(Violation of California Labor Code §§ 201 and 202)  
(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,  
INC. and DOES 1 through 100)**

97. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 96, and each and every part thereof with the same force and effect as though fully set forth herein.

98. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

99. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other class members who were discharged their wages, earned and unpaid, immediately at the time of their discharge. Plaintiff was not paid at the time of his discharge in September 2018 wages earned and unpaid throughout his employment, including but not limited to, minimum wages for time worked off-the-clock to perform work duties including, but not limited to, business-related inquiries and attending to tasks that were required to be completed such as assisting customers.

100. During the relevant time period, Defendants intentionally and willfully failed to pay other class members who quit their employment with Defendants with less than seventy-two (72) hours' notice their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ. Other class members were not given at the time of leaving Defendants' employ

1 all of the wages earned and unpaid throughout their employment, including but  
2 not limited to, minimum wages for time worked off-the-clock completing work  
3 duties including, but not limited to, business-related inquiries and attending to  
4 tasks that were required to be completed such as assisting customers.

5 101. Defendants' failure to pay Plaintiff and the other class members who  
6 are no longer employed by Defendants' their wages, earned and unpaid, within  
7 seventy-two (72) hours of their leaving Defendants' employ, is in violation of  
8 California Labor Code sections 201 and 202.

9 102. California Labor Code section 203 provides that if an employer  
10 willfully fails to pay wages owed, in accordance with sections 201 and 202, then  
11 the wages of the employee shall continue as a penalty from the due date thereof  
12 at the same rate until paid or until an action is commenced; but the wages shall  
13 not continue for more than thirty (30) days.

14 103. Plaintiff and the other class members are entitled to recover from  
15 Defendants the statutory penalty wages for each day they were not paid, up to a  
16 thirty (30) day maximum pursuant to California Labor Code section 203.

17 **SIXTH CAUSE OF ACTION**

18 **(Violation of California Labor Code § 204)**

19 **(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,**  
20 **INC. and DOES 1 through 100)**

21 104. Plaintiff incorporates by reference the allegations contained in  
22 paragraphs 1 through 103, and each and every part thereof with the same force  
23 and effect as though fully set forth herein.

24 105. At all times herein set forth, California Labor Code section 204  
25 provides that all wages earned by any person in any employment between the 1st  
26 and 15th days, inclusive, of any calendar month, other than those wages due upon  
27 termination of an employee, are due and payable between the 16th and the 26th  
28

1 day of the month during which the labor was performed.

2 106. At all times herein set forth, California Labor Code section 204  
3 provides that all wages earned by any person in any employment between the  
4 16th and the last day, inclusive, of any calendar month, other than those wages  
5 due upon termination of an employee, are due and payable between the 1st and  
6 the 10th day of the following month.

7 107. At all times herein set forth, California Labor Code section 204  
8 provides that all wages earned for labor in excess of the normal work period shall  
9 be paid no later than the payday for the next regular payroll period.

10 108. During the relevant time period, Defendants intentionally and  
11 willfully failed to pay Plaintiff and the other class members all wages due to  
12 them, within any time period permissible under California Labor Code section  
13 204, including but not limited to, minimum wages and overtime wages for time  
14 worked off-the-clock and meal and rest period premium payments for short, late,  
15 interrupted, and/or missed meal and rest periods.

16 109. Plaintiff and the other class members are entitled to recover all  
17 remedies available for violations of California Labor Code section 204.

18 **SEVENTH CAUSE OF ACTION**

19 **(Violation of California Labor Code § 226(a))**

20 **(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,**  
21 **INC. and DOES 1 through 100)**

22 110. Plaintiff incorporates by reference the allegations contained in  
23 paragraphs 1 through 109, and each and every part thereof with the same force  
24 and effect as though fully set forth herein.

25 111. At all material times set forth herein, California Labor Code section  
26 226(a) provides that every employer shall furnish each of his or her employees an  
27 accurate itemized statement in writing showing (1) gross wages earned, (2) total  
28

hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

112. Defendants have intentionally and willfully failed to provide Plaintiff and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the total number of hours worked by Plaintiff and the other class members.

113. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights. Because Plaintiff and the putative class members' wage statements did not reflect the accurate number of regular hours worked, did not reflect the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, Plaintiff and the putative class members were unable to determine the total amount of hours they worked, were unable to determine the total amount of compensation they were owed, and were unable to verify they were paid the proper amount. In order to determine how much Plaintiff and the putative class members should

1 have been paid, Plaintiff and the putative class members would have had to  
2 engage in discovery and mathematical computations in order to reconstruct the  
3 missing information.

4 114. More specifically, Plaintiff and the other class members have been  
5 injured by Defendants' intentional and willful violation of California Labor Code  
6 section 226(a) because they were denied both their legal right to receive, and  
7 their protected interest in receiving, accurate and itemized wage statements  
8 pursuant to California Labor Code section 226(a).

9 115. Plaintiff and the other class members are entitled to recover from  
10 Defendants the greater of their actual damages caused by Defendants' failure to  
11 comply with California Labor Code section 226(a), or an aggregate penalty not  
12 exceeding four thousand dollars per employee.

13 **EIGHTH CAUSE OF ACTION**

14 **(Violation of California Labor Code § 1174(d))**

15 **(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,**  
16 **INC. and DOES 1 through 100)**

17 116. Plaintiff incorporates by reference the allegations contained in  
18 paragraphs 1 through 115, and each and every part thereof with the same force  
19 and effect as though fully set forth herein.

20 117. Pursuant to California Labor Code section 1174(d), an employer  
21 shall keep, at a central location in the state or at the plants or establishments at  
22 which employees are employed, payroll records showing the hours worked daily  
23 by and the wages paid to, and the number of piece-rate units earned by and any  
24 applicable piece rate paid to, employees employed at the respective plants or  
25 establishments. These records shall be kept in accordance with rules established  
26 for this purpose by the commission, but in any case shall be kept on file for not  
27 less than three years.



118. Defendants have intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other class members, including but not limited to, time worked off-the-clock and meal and rest period premium payments for short, late, interrupted, and/or missed meal and rest periods. Defendants did not accurately record when Plaintiff and the other class members reported to work, the times at which Plaintiff and the other class members actually began and ended work, Plaintiff's and the other class members' total hours of work, meal periods, or split shift intervals. Defendants did not compensate Plaintiff and the other class members for all hours worked or provide the required reporting time pay.

119. As a result of Defendants' violation of California Labor Code section 1174(d), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights.

120. More specifically, Plaintiff and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 1174(d) because they were denied both their legal right and protected interest, in having available, accurate and complete payroll records pursuant to California Labor Code section 1174(d).

### **NINTH CAUSE OF ACTION**

#### **(Violation of California Labor Code §§ 2800 and 2802)**

#### **(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS, INC. and DOES 1 through 100)**

121. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 120, and each and every part thereof with the same force and effect as though fully set forth herein.

122. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by

1 the employee in direct consequence of the discharge of his or her job duties or in  
2 direct consequence of his or her obedience to the directions of the employer.

3 123. Plaintiff and the other class members incurred necessary business-  
4 related expenses and costs throughout the duration of their employment that were  
5 not fully reimbursed by Defendants, including, the use of personal phones for  
6 business-related purposes and costs incurred to comply with Defendants' dress  
7 code, including the costs of purchasing footwear and slacks.

8 124. Defendants have intentionally and willfully failed to reimburse  
9 Plaintiff and the other class members for all necessary business-related expenses  
10 and costs. Plaintiff and the other class members are entitled to recover from  
11 Defendants their business-related expenses and costs incurred during the course  
12 and scope of their employment, plus interest accrued from the date on which the  
13 employee incurred the necessary expenditures at the same rate as judgments in  
14 civil actions in the State of California.

15 **TENTH CAUSE OF ACTION**

16 **(Violation of California Business & Professions Code §§ 17200, et seq.)**  
17 **(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,**  
18 **INC. and DOES 1 through 100)**

19 125. Plaintiff incorporates by reference the allegations contained in  
20 paragraphs 1 through 124, and each and every part thereof with the same force  
21 and effect as though fully set forth herein.

22 126. Defendants' conduct, as alleged herein, has been, and continues to  
23 be, unfair, unlawful and harmful to Plaintiff, other class members, to the general  
24 public, and Defendants' competitors. Accordingly, Plaintiff seeks to enforce  
25 important rights affecting the public interest within the meaning of Code of Civil  
26 Procedure section 1021.5.

27 ///

1           127. Defendants' activities as alleged herein are violations of California  
2 law, and constitute unlawful business acts and practices in violation of California  
3 Business & Professions Code section 17200, et seq.

4           128. A violation of California Business & Professions Code section  
5 17200, et seq. may be predicated on the violation of any state or federal law. In  
6 this instant case, Defendants' policies and practices of requiring employees,  
7 including Plaintiff and the other class members, to work overtime without paying  
8 them proper compensation violate California Labor Code sections 510 and 1198.  
9 Additionally, Defendants' policies and practices of requiring employees,  
10 including Plaintiff and the other class members, to work through their meal and  
11 rest periods without paying them proper compensation violate California Labor  
12 Code sections 226.7 and 512(a). Defendants' policies and practices of failing to  
13 pay minimum wages violate California Labor Code sections 1194, 1197, and  
14 1197.1. Moreover, Defendants' policies and practices of failing to timely pay  
15 wages to Plaintiff and the other class members violate California Labor Code  
16 sections 201, 202 and 204. Defendants also violated California Labor Code  
17 sections 226(a), 1174(d), 2800 and 2802.

18           129. As a result of the herein described violations of California law,  
19 Defendants unlawfully gained an unfair advantage over other businesses.

20           130. Plaintiff and the other class members have been personally injured  
21 by Defendants' unlawful business acts and practices as alleged herein, including  
22 but not necessarily limited to the loss of money and/or property.

23           131. Pursuant to California Business & Professions Code sections 17200,  
24 et seq., Plaintiff and the other class members are entitled to restitution of the  
25 wages withheld and retained by Defendants during a period that commences  
26 November 21, 2015; an award of attorneys' fees pursuant to California Code of  
27 Civil procedure section 1021.5 and other applicable laws; and an award of costs.  
28

**ELEVENTH CAUSE OF ACTION**

**(Violation of California Labor Code §§ 2698, et seq.)**

**(Against LTF CLUB MANAGEMENT CO, LLC, LIFE TIME FITNESS,  
INC. and DOES 1 through 100)**

132. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 131, and each and every part thereof with the same force and effect as though fully set forth herein.

133. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

134. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

135. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

**Failure to Pay Overtime**

136. Defendants’ failure to pay legally required overtime wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 510 and 1198.

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**Failure to Provide Meal Periods**

137. Defendants' failure to provide legally required meal periods to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

**Failure to Provide Rest Periods**

138. Defendants' failure to provide legally required rest periods to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.7.

**Failure to Pay Minimum Wages**

139. Defendants' failure to pay legally required minimum wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

**Failure to Timely Pay Wages Upon Termination**

140. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

**Failure to Timely Pay Wages During Employment**

141. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

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**Failure to Provide Complete and Accurate Wage Statements**

142. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

**Failure to Keep Complete and Accurate Payroll Records**

143. Defendants' failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

**Failure to Reimburse Necessary Business-Related Expenses and Costs**

144. Defendants' failure to reimburse Plaintiff and the other aggrieved employees for necessary business-related expenses and costs in accordance with California Labor Code sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

145. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all statutory penalties against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

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b. Penalties under California Code of Regulations Title 8 section 11010, et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

146. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

147. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

## DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorney General Act, requests a trial by jury.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorney General Act, prays for relief and judgment against Defendants, jointly and severally, as follows:

**Class Certification**

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representative of the Class;
3. That counsel for Plaintiff be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

**As to the First Cause of Action**

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and the other class members;
6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;
7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;
8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194;
9. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and
10. For such other and further relief as the Court may deem just and proper.

**As to the Second Cause of Action**

11. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff and the other class members;

12. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

13. For all actual, consequential, and incidental losses and damages, according to proof;

14. For premium wages pursuant to California Labor Code section 226.7(c);

15. For pre-judgment interest on any unpaid wages from the date such amounts were due;

16. For reasonable attorneys' fees and costs of suit incurred herein;

17. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and

18. For such other and further relief as the Court may deem just and proper.

**As to the Third Cause of Action**

19. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the other class members;

20. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

21. For all actual, consequential, and incidental losses and damages, according to proof;

22. For premium wages pursuant to California Labor Code section 226.7(c);

23. For pre-judgment interest on any unpaid wages from the date such amounts were due;

24. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and

25. For such other and further relief as the Court may deem just and proper.

**As to the Fourth Cause of Action**

26. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the other class members;

27. For general unpaid wages and such general and special damages as may be appropriate;

28. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff and the other class members in the amount as may be established according to proof at trial;

29. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

30. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

31. For liquidated damages pursuant to California Labor Code section 1194.2;

32. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and

1           33. For such other and further relief as the Court may deem just and  
2 proper.

3                           **As to the Fifth Cause of Action**

4           34. That the Court declare, adjudge and decree that Defendants violated  
5 California Labor Code sections 201, 202, and 203 by willfully failing to pay all  
6 compensation owed at the time of termination of the employment of Plaintiff and  
7 the other class members no longer employed by Defendants;

8           35. For all actual, consequential, and incidental losses and damages,  
9 according to proof;

10          36. For statutory wage penalties pursuant to California Labor Code  
11 section 203 for Plaintiff and the other class members who have left Defendants'  
12 employ;

13          37. For pre-judgment interest on any unpaid compensation from the date  
14 such amounts were due;

15          38. For civil penalties pursuant to California Labor Code sections  
16 2699(a), (f), and (g); and

17          39. For such other and further relief as the Court may deem just and  
18 proper.

19                           **As to the Sixth Cause of Action**

20          40. That the Court declare, adjudge and decree that Defendants violated  
21 California Labor Code section 204 by willfully failing to pay all compensation  
22 owed at the time required by California Labor Code section 204 to Plaintiff and  
23 the other class members;

24          41. For all actual, consequential, and incidental losses and damages,  
25 according to proof;

26          42. For pre-judgment interest on any unpaid compensation from the date  
27 such amounts were due;  
28

43. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and

44. For such other and further relief as the Court may deem just and proper.

**As to the Seventh Cause of Action**

45. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

46. For actual, consequential and incidental losses and damages, according to proof;

47. For statutory penalties pursuant to California Labor Code section 226(e);

48. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and

49. For such other and further relief as the Court may deem just and proper.

**As to the Eighth Cause of Action**

50. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff and the other class members as required by California Labor Code section 1174(d);

51. For actual, consequential and incidental losses and damages, according to proof;

52. For statutory penalties pursuant to California Labor Code section 1174.5;

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53. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and

54. For such other and further relief as the Court may deem just and proper.

**As to the Ninth Cause of Action**

55. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

56. For actual, consequential and incidental losses and damages, according to proof;

57. For the imposition of civil penalties and/or statutory penalties;

58. For reasonable attorneys' fees and costs of suit incurred herein;

59. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g); and

60. For such other and further relief as the Court may deem just and proper.

**As to the Tenth Cause of Action**

61. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

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62. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

63. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

64. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

65. For such other and further relief as the Court may deem just and proper.

**As to the Eleventh Cause of Action**

66. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f) and (g) plus costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

67. For such other and further relief as the Court may deem equitable and appropriate.

Dated: September 4, 2020

**KASDAN LIPPSMITH WEBER TURNER  
LLP**

By: /s/ Graham B. LippSmith  
Graham B. LippSmith

**LAWYERS for JUSTICE, PC**

Edwin Aiwazian  
Arby Aiwazian  
Elizabeth Parker-Fawley  
*Attorneys for Plaintiff*



**CERTIFICATE OF SERVICE**

I hereby certify that on September 4, 2020, I electronically filed the **FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES & ENFORCEMENT UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE § 2698, ET SEQ. AND DEMAND FOR JURY TRIAL** with the Clerk of the Court, using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF system to receive service.

/s/ Graham B. LippSmith

Graham B. LippSmith